

H82AABELS

Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

15 CR 537 (VEC)

5 WENDELL BELLE,

6 Defendant.

7 -----x

8 New York, N.Y.

9 August 2, 2017

3:00 p.m.

10 Before:

11 HON. VALERIE E. CAPRONI,

12 District Judge

13
14 APPEARANCES

15 JOON H. KIM

16 Acting United States Attorney for the
17 Southern District of New York

SAMSON ENZER

17 Assistant United States Attorney

18 JEFFREY G. PITTEL

19 Attorney for Defendant Belle

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1 (Case called)

2 MR. ENZER: Good afternoon, your Honor.

3 Samson Enzer, for the government. With me at counsel

4 table is Detective Javed Tepperman and Detective Jason

5 Hernandez, of the New York City Police Department

6 THE COURT: Good afternoon.

7 MR. PITTELL: Jeffrey Pittell, appearing with

8 Mr. Belle.

9 THE COURT: Good afternoon, Mr. Pittell.

10 Good afternoon, Mr. Belle.

11 THE DEFENDANT: Good afternoon.

12 THE COURT: All right. Mr. Belle or Mr. Enzer, can
13 you do me a favor and move the screen that's on the defendant's
14 table over.

15 OK. Mr. Pittell, have you and your client read the
16 presentence report dated July 25, 2017?

17 MR. PITTELL: Yes, we have.

18 THE COURT: Have you discussed it with each other?

19 MR. PITTELL: Yes, we have.

20 Mr. Belle, did you read the presentence report?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Did you discuss it with your attorney?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Are there any objections to the report?

25 MR. PITTELL: No.

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1 MR. ENZER: No.

2 THE COURT: The presentence report will be made part
3 of the record in this matter and placed under seal. If an
4 appeal is taken, counsel on appeal may have access to the
5 sealed report without further application to this Court.

6 I've received a sentencing submission from the defense
7 dated July 26, 2017, that included a report dated October 21,
8 2016, from Melissa Lang who is a mitigation specialist.

9 I received a letter from the government dated July 27,
10 2017, as well as a submission dated January 5, 20167, that laid
11 out government's view of the relative culpability of the
12 defendants in this case. That submission placed Mr. Belle in
13 the top tier of culpability in view of the government.

14 I'd previously received in connection with the
15 sentencing of Mr. Bracey the autopsy report and crime scene
16 pictures of Mr. Lora. I also received today a Victim Impact
17 Statement from Mr. Laura's sister and additional information
18 regarding infractions at the MDC and I had sent the parties
19 yesterday information I had received from probation regarding
20 Mr. Belle's institutional disciplinary history.

21 Just want to make sure all that was filed with ECF.

22 Mr. Enzer, yours are?

23 MR. ENZER: Yes, your Honor.

24 THE COURT: Mr. Pittell, did you file your submissions
25 on ECF?

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1 MR. PITTELL: Yes, I did. Well, except for the
2 attached report.

3 THE COURT: OK. So the attached report should be
4 filed though it can be redacted.

5 MR. PITTELL: OK. I'll do that. It just seemed at
6 least at first blush I just filed my letter because I knew that
7 signature portions of the report would have to be redacted, so
8 that's sent to chambers obviously giving the government a full
9 copy.

10 THE COURT: Did you file it under seal?

11 MR. PITTELL: The letter's not filed under seal.

12 THE COURT: No. The attachment.

13 MR. PITTELL: No. Can I file the attachment under
14 seal?

15 THE COURT: No. Did you?

16 MR. PITTELL: No.

17 THE COURT: OK. What I'd like you to do is propose
18 redactions to it. There clearly is material in there that
19 should be redacted from the public record. But the entire
20 thing needs to be filed under seal and the redacted version
21 needs to be filed on the public record. OK? So, I'll give you
22 a couple of weeks to get that done.

23 MR. PITTELL: Thank you.

24 THE COURT: OK. The next step is the guidelines
25 calculation. In this case it's pretty straightforward. The

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1 defendant pled guilty to two weapons counts. The guidelines
2 for the weapons counts are the mandatory minimum.

3 Count One which was using and carrying a gun in
4 connection with a RICO conspiracy carries a mandatory minimum
5 of five years imprisonment that must be consecutive to any
6 other term of imprisonment.

7 Count Two which was using carrying and discharging a
8 firearm in connection with an attempted murder of a rival gang
9 member carries a mandatory minimum of 25 years which again must
10 be consecutive to any other term of imprisonment.

11 So as discussed at the time of Mr. Belle's plea he
12 must be sentenced to at least 30 years which must be
13 consecutive to the sentence that he is currently serving. The
14 maximum sentence is any term of years or life.

15 The defendant's argument, Mr. Pittell's argument
16 seeking credit for time already served on the Bronx sentence.
17 I disagree with the defendant's argument concerning guideline
18 5G1.3B1 and I find that Rivers is not applicable to this case
19 because congress has mandated that the gun counts be
20 consecutive to all other sentences.

21 So even if the crime that he was convicted for in the
22 Bronx had been charged and he had been convicted in federal
23 court, these sentences, the sentences for the gun count would
24 have to run consecutive to that. And I can't imagine any
25 reason why that result should be different because it's a state

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1 sentence instead of a federal sentence.

2 That brings to us Mr. Belle's criminal history.

3 Mr. Belle began his criminal history early. In
4 June 2007 he had a juvenile adjudication for murder. He
5 received five years in a juvenile facility. That gives him two
6 criminal history points. In October of 2011 he was convicted
7 of criminal possession of a weapon. That's also two criminal
8 history points. Then in June 2015 he was convicted of
9 attempted murder and his sentence is nine years.

10 My question is, is that a flat nine years or is that
11 nine to something?

12 MR. BELLE: It's a flat nine.

13 THE COURT: Just a flat nine, OK.

14 That's three criminal history points. That brings a
15 total of seven criminal history points. Seven criminal history
16 points puts Mr. Belle in criminal history category four.

17 Are there any guidelines arguments that I have not
18 addressed?

19 MR. ENZER: Not from the government.

20 MR. PITTELL: No, none from us.

21 THE COURT: I don't see any basis for a downward
22 departure under the guidelines. On the other hand, there are
23 grounds for an upward departure or an upward variance.

24 The circumstances of the murder of Mr. Laura are in my
25 view outside the heartland of murders. Moreover, Mr. Belle's

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1 very substantial criminal history which is not accounted for in
2 the guidelines because of how the guidelines treats 924(C)
3 count might argue for a sentence above the mandatory minimum.

4 Are there any factual issues in this case that are in
5 dispute?

6 MR. PITTELL: None from us.

7 MR. ENZER: None from the government.

8 THE COURT: OK. Are there any victims that want to be
9 heard beyond the Victim Impact Statement that I received?

10 MR. ENZER: No, your Honor.

11 THE COURT: All right. Mr. Enzer, would you like to
12 be heard?

13 MR. ENZER: Yes, please, your Honor.

14 Thank you.

15 The most serious crime of the many, many crimes that
16 Wendell Belle committed is the murder of Moises Lora which the
17 Court is familiar with. By the time of the murder, Belle was a
18 high ranking member of the YGz gang, a gang that wreaked havoc
19 and destruction throughout multiple communities in the Bronx
20 and throughout New York City. He was a man of statue in the
21 gang. And he got into an argument with other YG gang buddies
22 of his while they were drinking, an argument about who had done
23 the most work for the gang, who had put in the most violence.
24 And as your Honor heard at the Fatiko hearing for Belle's
25 co-defendant, Bracey, the person who decided, let's settle this

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1 dispute by going to Courtlandt was Wendell Belle, this
2 defendant.

3 At his decision, his urging, his goading, the others
4 went with him and they went together to Courtlandt to the
5 Melrose Houses on Morris Avenue. They saw Noah, Moises Lora, a
6 16-year-old, frail, 90 pound member of a rival gang, along with
7 Noah's associate, Hoa. And in a formation like a military
8 team, went through the grass, approached Noah and Polo,
9 attacked them. Polo got away. And the group of YGz surrounded
10 Noah. Noah tried to run away. He fell onto the concrete as
11 your Honor heard at the hearing. And this group of YG members
12 punched, kicked, stomped on Noah while he was on the pavement
13 defenseless.

14 And as your Honor heard from the evidence at the
15 hearing and in our submission and it's undisputed, one of the
16 main protagonists in that attack was Belle. Belle was one of
17 the YG members, not just kicking Noah in the leg or on the side
18 or not just looking out, he was jumping up and down on Laura's
19 head. He was stomping him in the head.

20 And from the autopsy report it is clear, Noah's skull
21 was crushed in multiple places to the point where his brain
22 hemorrhaged and blood poured out of his body onto the concrete
23 onto Belle's sneakers. So much blood that a pool of what was
24 left of Noah was left on that pavement even after the police
25 had tried to clean it up, yards from a playground in a

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1 courtyard in a housing project where people are supposed to
2 live and carry out their everyday lives and let their children
3 play in the play ground. There was the pool of blood, some of
4 it still on Belle's shoes when he walked over with his gang
5 buddies to another area where the YGz hang out, Mott Haven, and
6 proceeded to brag about what he had just done, bragging that
7 landed him here in federal court. He mouthed off about what he
8 had done. And in multiple subsequent conversations,
9 conversations before he was in custody, conversations after he
10 was in federal custody, he made clear to anyone who would
11 listen, everyone else, you didn't really kill Noah. I'm the
12 one who killed Noah. I'm the one who was jumping up on his
13 head. He wanted that credit. For him this was a mark of honor
14 what he did to that 16-year-old, 90 pound, pathetic, puny
15 rival. For that alone if this Court sentenced him to life, it
16 would not be unjust.

17 And that is not even close. It's the tip of the
18 iceberg for Belle. Even before he got involved in this murder,
19 at the age of 13 he killed somebody. He killed another
20 teenager and he did a five year reformatory term for that.
21 That should have been the ultimate wake-up call that he needed
22 to get his life together. He was given a second chance. Five
23 years for killing somebody is a significant break. Understood
24 he was 13 but five years for taking the life of a another who
25 lost his entire life, his teen-age years, his adult years, his

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1 elder years, it was a gift for him and he should have
2 straightened up after that but he didn't.

3 Moments after getting out of jail, just a few weeks,
4 maybe a month he is in the YGz gang. He's eager to prove
5 himself and he very quickly rose to become a leader of multiple
6 sects, Gucci Guns, the two GGs, River Park Towers, RPT and also
7 had status in the 163rd YGz that were part of this Laura
8 murder.

9 One of the first major acts that he committed which is
10 long before the murder of Noah, he lures a bunch of Courtlandt
11 guys to 163 Street for what is supposed to be a fight. The YGz
12 don't trust the Courtlandt, so they bring guns. The Courtlandt
13 doesn't trust the YGz so they bring guns and a shootout ensues
14 a block from a middle school in which three people get shot,
15 Philipe Blanding, "Hump", a member of the rival gang, William
16 Bracey, somebody in the gang who was closely associated with
17 Belle and another member of the 163rd YGz.

18 Then we have the murder of Dykeem Etheridge which your
19 Honor is familiar with. It starts out as a bunch of YGz
20 mobbing into rival Courtlandt territory. There's a robbery and
21 assault in a bodega and then everyone leaves that bodega and
22 goes a block south. And walking out of a store is Dykeem
23 Etheridge who by the way, is a member of the YGz but he looked
24 like he was a Courtlandt guy because he lives in the Courtlandt
25 neighborhood. It was winter. His face was covered. He was

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1 wearing a winter hat.

2 Who was the first to punch him? Wendell Belle.
3 Wendell Belle punched him. And as a result everyone else
4 surrounded and started attacking Dykeem and when Dykeem tried
5 to run away Kareem Lanier shot and killed him. Dykeem would
6 be alive today if Wendell Belle had not done that. He is not
7 legally charged with murder for that but he was instrumental in
8 the series of events that caused Dykeem's death. And it's
9 another example of a time where he is not just a follower, not
10 a hanger-on, not a look-out. He is a protagonist.

11 After that you have a robbery of a drug dealer that he
12 parts in and you have him trying to shoot with a fellow member
13 of the gang at Courtlandt but the gun jams. Then you have the
14 Laura murder.

15 Now for a regular person crushing someone else's skull
16 to the point where they bleed to death might cause you to pause
17 and stop what you're doing in the street. But not for Belle.
18 After that he proceeds with enthusiasm to participate in a
19 planned shooting directed at Courtlandt. He teams up with
20 another gang, Murda Moore Gangstas, the MMG gang. They meet in
21 an apartment. This is on November 16, 2013. They're drinking
22 and planning how they're going to go over to the rival
23 territory to shoot. He wants to shoot but they're not going to
24 let him. They'll just let him hold the gun. And he brags
25 about what he has done to Noah. Do you know who I am? I'm the

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1 one who killed Noah. And he holds the gun while somebody else
2 holds the cartridge. They do that so if the police stops them
3 they think they'll get a lower charge for that in the Bronx.
4 Then they put the gun together and somebody else shoots and a
5 bystander is hit.

6 About a week after that on November 26, 2013, Belle
7 seizes the opportunity to shoot another Courtlandt guy. Where?
8 Steps from the Bronx criminal courthouse. A rival is spotted
9 near the Bronx criminal courthouse. This is a frequent place
10 where members of various gangs go and they're frequently
11 unarmed when they go there. Because if they're going to go to
12 court they have to check or not bring any weapons. They don't
13 want to get caught.

14 So here's a car. It's got a bunch of rivals. It's
15 being driven by a Courtlandt associate. And according to
16 witnesses, Belle when the car was stopped a light, walked up to
17 the passenger side window. Tap, tap, tap with a gun, pointed
18 the gun directly in and fired and he hit the driver. The
19 vehicle spun out you control, hit other cars. And we're told
20 one of the cars that was hit had a state judge.

21 He's been in custody since then, either in state or
22 federal as a result of this case. And his conduct didn't stop.
23 It's nothing not like he went to jail and suddenly was no
24 longer a danger to himself and others. Very shortly after
25 being writ-ted into federal custody, him, William Bracey and

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1 Davaughan Brooks, three YG members concerned that Nathaniel
2 Flood a member of the rival gang would attack them -- why would
3 he attack them? Because Belle and Bracey had killed Laura.
4 They planed, they plotted and they attacked Flood. They
5 attacked him with whatever they could grab and hit flood. And
6 Belle ended up in the SHU for that. That was his first stint
7 in the SHU since he was arrested and taken into federal custody
8 in this case.

9 THE COURT: Is that the March 8 incident?

10 MR. ENZER: I think it was February 2016.

11 MR. PITTELL: The March 8 I think is the date of
12 adjudication.

13 THE COURT: OK.

14 MR. ENZER: And since then he's had a series of
15 variety of disciplinary infractions culminating most recently
16 in the infraction report that I submitted with the submission
17 that I filed today on July 22. Knowing that he is about to get
18 sentenced for a murder, Belle through a slot in his cell threw
19 a milk carton filled with an unknown liquid substance at a
20 guard. What is that substance? It's believed to be either
21 urine or feces, some combination, some part of it. And he is
22 not the only inmate who does that but he is one of them.

23 He has done something nothing to show remorse. In
24 fact after his plea in this case he tried to take his plea
25 back. When he tried to take his plea back his initial

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1 statement to the Court was oh, I actually didn't do the crime.
2 Then he decided you know what, It's in my interest. I'll
3 withdraw my motion to withdraw my plea. He's done nothing to
4 show that he's been chastised by any of his conduct, by any of
5 the consequences it caused or by the consequences for him of
6 being incarcerated for a very significant period of time.

7 He is a gang banger to the core, someone with no
8 regard for the lives of others, no regard for the consequences
9 of his actions, and those consequences are severe. Just one of
10 the victims, Jessica Laura, has submitted an impact statement
11 that the government filed. Jessica Laura is the older sister
12 of Moises Laura. She is a citizen. She works and she was like
13 a mother to young Moises. And what she writes is that -- I'll
14 read what she said because it's far more powerful than anything
15 I could say.

16 Moises Alexis Lora was a very, very smart being. Ever
17 since he was just a little kid he was the brightest of them
18 all. He had a Napoleon complex due to this stature and height.
19 He was always the smallest kid in his class and was a very
20 loveable kid. His teachers in PS1 always praised him for being
21 a great student. His handwriting skills at the age of five
22 were phenomenal, neat, eligible and never had to be on top of
23 him to complete his homework. He had so much ambition. He
24 played softball, basketball. You name it, he was on a team.
25 He told me one day, Jay, I want to go to UCLA when I finished

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1 school and I went to buy mommy a house and get you a car. He
2 was such a giving person.

3 Always did what he was told. You could always -- you
4 couldn't on him, very obedient and man, he was stubborn.
5 Moises was like a son. I took him every where with me, to work
6 when I was braiding hair at a barbershop, shopping and also to
7 hangout with friends. Writing this is not easy for me without
8 me tearing up.

9 I did everything that a big sister would do to make
10 sure my little one stayed out of trouble. I always gave him
11 everything a big sister would do to make sure my little one
12 stayed out of trouble. I always gave him advice about life,
13 things that could aid him in choice, making and always be
14 thankful.

15 As his only sister from my mother's side, he adored me
16 like no other. He was special. He was like a son to me and I
17 wish I could turn the hands back in time and have him here with
18 me. I never in a million years would have thought I would be
19 writing a letter like this. Never did I imagine that he would
20 be taken from us and in that kind of brutal unnatural way.
21 Things will never be the same. His presence is missed dearly.

22 My heart is heavy and my eyes are full of tears. I
23 speak on behalf of my mom. No mother should ever have to go
24 through losing a child. A child should be the one burying his
25 mother, not his mother burying her child, not losing here child

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1 due to another human taking it from him. That's not the way.
2 Never should be the way.

3 I'm ending this letter now and I leave it up to you,
4 judge. You make that final decision on how the persons that
5 committed this heinous ungodly crime deal with what they
6 committed. For the serious of this offense, a very substantial
7 sentence is warranted. To do justice for what Belle has done,
8 a very substantial sentence is warranted to the deter him and
9 incapacitate him. Until he is old enough to never hurt anyone
10 again, a substantial Sterns is warranted.

11 We, the government have asked for a sentence of the
12 mandatory minimum, thirty years consecutive to the nine years
13 that Belle has in the state for the state case arising out of
14 the attempted murder.

15 Your Honor has already ruled on the 5G1 issue but I'll
16 just say, the government never would have agreed to this plea
17 agreement if there was any way that this 30 years would in part
18 be concurrent to that nine-year sentence. We view this as the
19 absolute minimum that this defendant should have to do.

20 For those reasons, your Honor, we rest on our
21 submission.

22 THE COURT: Thank you.

23 Mr. Pittell.

24 MR. PITTELL: Judge, I agree with the government in
25 the sense that a substantial sentence is appropriate and a

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1 substantial sentence is going to be imposed. A sentence,
2 effectively, 39 years is going to be imposed. Mr. Belle gets
3 out of jail he's going to be in his mid to late 50s.

4 Regarding the history that Mr. Enzer has recited, I am
5 not going to sit here and nitpick incidents which may or may
6 not be a hundred percent accurate. We acknowledge that he has
7 engaged in horrific crimes. It's in the PSR. It's in the
8 government's submission. It was in the Fatico hearing before
9 your Honor. It's in the other prior submissions. It's well
10 documented and there's no excuse. There's no explanation for
11 it. I've submitted a mitigation report. That doesn't defend
12 it. That doesn't justify it. It only gives an illustration a
13 description of the world that he came into. And while they are
14 people that are born into the world that rise above it and go
15 on to do great things, sadly that's not the case for everybody.

16 Regarding what you had mentioned in, referenced in
17 your order, I discussed some of those incidents with Mr. Belle.
18 The first incident is the incident with Flood which is
19 referenced in the government's submission and I trust your
20 Honor is aware of it --

21 THE COURT: Absolutely.

22 MR. PITTELL: -- from our proceedings. I don't want
23 it to sound like I'm blaming the Bureau of Prisons. But when
24 they are two viable gangs that have engaged in serious violence
25 upon each other and actually killed each other, it can't be

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1 surprising that incidents like this are going to happen when
2 they're both put in the same unit in a jail cell.

3 Regarding the second incident, that's exactly what
4 happened. That occurred the day that Mr. Belle -- well,
5 actually going back to the first incident he was placed in the
6 SHU, Special Housing Unit, where he was held more or less in
7 isolation for 90 days. The day he's released he's put back
8 into general population into the same unit as one of Flood's
9 co-defendants in the case, somebody who was a member of CAC.
10 It's not surprising that the moment he hits the unit that the
11 two of them are going to go at it, go at each other, get in a
12 fight, and that's exactly what happened. And they both ended
13 up in the SHU.

14 Regarding the other fighting incident, I've discussed
15 those with Mr. Belle. He's acknowledged that he was involved
16 in fights. They were verbal altercations that became physical,
17 that nobody was hurt. Both him and the other person that was
18 involved were both sent to the SHU. He had disciplinary
19 hearings. He accepted responsibility. He pleaded guilty to
20 those, accepted his punishment and moved on.

21 In my submission I was not involved in the plea
22 negotiations of this case, so it's hard for me to advocate.
23 What I was seeking is appropriate punishment. I came in.
24 Prior counsel had negotiated with the government in good faith
25 that a 30-year sentence consecutive to his Bronx sentence was

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1 going to be the sentence. That is the government's
2 recommendation. That's probation's recommendation.

3 I really referenced the issue about crediting the good
4 time in my submissions because when I came in it was in
5 relation to the motion to withdraw the plea and Mr. Belle
6 initially was under the impression that he would get some kind
7 of credit for it. I had looked into the issue. It became
8 pretty clear to me that the sentence has to be imposed
9 consecutive to the state case, as the Supreme Court said so.

10 What was not so clear is whether or not Rivers which
11 on mandatory minimum cases other than 924(C) allows sentences
12 that are actually less than the mandatory minimum because it's
13 not really a sentence. It's giving a credit. So I brought the
14 issue to the Court's attention.

15 But I think, your Honor, having presided over
16 sentences, you are well aware of the facts in this case and I
17 submit that the jointly recommended sentence by the government,
18 by probation and by us is an appropriate sentence in that it
19 will specifically and generally determine Mr. Belle and keep
20 him incarcerated in what will be a highly secure facility at
21 least until he is in his, I estimate, late to mid 50s.

22 THE COURT: Thank you, Mr. Pittell.

23 Mr. Belle, would you like to be heard?

24 THE DEFENDANT: Yes, ma'am.

25 MR. PITTELL: He has a written statement, your Honor,

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1 that he would leak to read.

2 THE COURT: That's fine.

3 THE DEFENDANT: Just stand up?

4 THE COURT: However you're most comfortable. If you
5 are going to read something though, please read it very slowly
6 so the court reporter can get it down.

7 THE DEFENDANT: Dear Judge Caproni, I would like to
8 let you know that I accept all responsibility for my actions.
9 I also understand that the things that I've done were wrong and
10 I know I can't take them back but I would take this time and
11 better myself in every aspect and form.

12 Also, I would take this time to realize the values of
13 life so I can make it home to my son who is five years old now.
14 And by the time I am released he will be a grown man probably
15 with children and explain to them what I've been through, how I
16 started off on the wrong foot and ended up in a bad situation
17 I've caused and took the time and realized I've done stupid
18 things I'm not proud of.

19 But I am glad to be here to talk and show about me
20 bettering myself, choosing the right path to change to be a
21 positive role model for those who are slipping down the same
22 road I went through.

23 Also for the record, I wish I would have took all of
24 this energy of doing the wrong things and used it to do the
25 right things for my community to be a better place instead of

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1 being a terror in my community. But I have no time to feel bad
2 for myself. So I'm here as a grown man accepting full
3 responsibility for my actions.

4 With that being said, I would like to apologize to my
5 mother and my family and my community.

6 And I also wrote a part for the Laura family.

7 Also, I would really like to apologize to Mr. Laura's
8 family for causing so much grief, pain and tears. I know what
9 it feels like to lose someone you love dearly and I experienced
10 that this February with my grandmother. So I'm ashamed of
11 myself for what I have done. And I know it is nothing I can
12 say are do to comfort your hearts but I would like for all of
13 you to understand from the bottom of my heart with my deepest
14 apologies I'm sorry for what I've caused. I wake up every day
15 wishing I could go back and take what I've done back. So
16 please don't look at me as a monster who doesn't care about
17 life. But I stand here accepting my punishment like a man. I
18 am hoping one day you will forgive me for what I've done.

19 So again, I would like to apologize to Mr. Laura's
20 mother, brother and sisters.

21 And thank you for listening to what I had get off my
22 chest.

23 THE COURT: OK. Mr. Belle, I'm required by federal
24 law to consider the nature and circumstances of the offense and
25 the history and characteristics of the defendant. In terms of

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1 you, this defendant, I've considered your history and
2 characteristics. You were dealt a very difficult hand from the
3 time you were born. You were born into a dysfunctional
4 environment. Both of your parents had drug problems. Most of
5 your life your father has been in jail. Your stepfather was
6 violent and there was domestic violence in the home.

7 New York public schools failed you. It is clear from
8 an early age that you needed additional attention in school
9 which you did not get. You were expelled from one school for
10 reasons that do not make very much sense but reflect a zero
11 tolerance approach that makes very little sense when you are
12 dealing with small children.

13 While the New York City schools failed you, your
14 parents did not make school the priority that they should have
15 made it. You were absent and late from school a ridiculous
16 amount of time during a period of time when you should have
17 been learning to read and do arithmetic. It's very difficult
18 to do well in school if you are not in school. You probably
19 have untreated ADHD and you may have untreated depression.
20 Given your chaotic childhood, it's a frankly not all that
21 surprising that you ended up with antisocial tendencies.

22 On the other hand, I will say that your mother has
23 been your constant supporter. While she might not have
24 intervened with the schooling as early as she could have, she
25 did intervened with the school to try to get you additional

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1 help. Based on mitigation reports she was a very consistent
2 supporter of you when you were in a juvenile facility. She
3 participated in therapy sessions and clearly wants the best for
4 you.

5 Accepting the mitigation report, it appears that there
6 was reason for optimism that when you were released from the
7 juvenile facility you had learned skills that should have been
8 positive and were positive social skills. Regrettably,
9 follow-up on care and treatment was not forthcoming or you
10 didn't take advantage of what was available. One way or the
11 other, you quickly reverted to the streets and to violent
12 behavior.

13 You have a five-year-old child who you mentioned who
14 you will never support either financially or emotionally. With
15 that child this is at least the second generation, if not the
16 their generation, of Belle men who will not be present in their
17 children's lives when they need them.

18 Taking into account that evaluation of you, federal
19 law requires me no impose a sentence that is reasonable and not
20 greater than necessary to accomplish the goals of sentencing.
21 I've considered all of the factors.

22 The first is the seriousness of the offense. This is
23 among the most serious of all federal offenses. As Mr. Enzer
24 said, the YG gang which you were a high level leader of and
25 which you were a part of for years, made life absolutely

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1 miserable in that area of the Bronx. While you and your
2 buddies were shooting at each other and mobbing stores, there
3 were other residents of that community who were trying to raise
4 their children and go to work and live a decent life. You
5 didn't care about those people. Those people were irrelevant
6 to you. Those people were just people who were in your way. I
7 appreciate the notions that the gang provided a semblance of
8 family, stability in an unstable young man's life. But the
9 murder of Laura which you participated in was depraved conduct.

10 Mr. Belle, do you know what "depraved" means?

11 THE DEFENDANT: Yes.

12 THE COURT: What does it mean?

13 THE DEFENDANT: It means I didn't care whether he
14 lived or died.

15 THE COURT: That's correct. It was morally culpable.
16 It was perverted conduct.

17 The murder of Laura was not simply a heat of the
18 moment thing where you happened to have a gun and you got
19 carried away and shot at someone. You and your buddies
20 intentionally went to rival territory looking for trouble to
21 show what a big man you are, what a big doer you are for a
22 bunch of thugs. It's depraved conduct. That would be depraved
23 conduct even if you didn't find anybody. Just going, setting
24 out to kill another human being is depraved.

25 But that's not what happened. You fell upon a

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1 90-pound boy, a 16-year-old child who could not run away from
2 you because his leg broke. So he's literally lying on the
3 ground unable to flee and you kick him to death. You can stare
4 at the desk but that's depraved. There's just no other way of
5 describing. What were you thinking?

6 THE DEFENDANT: I was intoxicated.

7 THE COURT: No, no. That's a cop-out. You were
8 intoxicated. What were you thinking?

9 THE DEFENDANT: Truthfully, I can't even tell you
10 right now.

11 THE COURT: I can tell you what you were thinking.
12 You were thinking, I'm showing what a big man I am. I'm
13 showing how I'm king of the -- I can get rid of this rival gang
14 member. I can show that I'm a producer.

15 And you didn't care a whit about his family or about
16 the innocent people in that community who saw you doing this,
17 who saw a dead Laura lying on the ground, who saw a pool of
18 blood the next day. What does that communicate to the people
19 who live in that community? What would you think now if your
20 five year old stumbled on that?

21 I've considered the need to promote respect for the
22 law. I see absolutely no respect for the law from Mr. Belle.
23 I'm struck by the fact that he is 24 years old and he has no
24 legitimate work history. He has a child who needs financial
25 and emotional support and yet even that did not motivate him to

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1 consider getting a job or cleaning up his act.

2 Mr. Belle, by my calculation if I've done the
3 arithmetic correctly, over a third of your life has been in
4 jail. And that's because you have no ability and you've
5 demonstrated absolutely no ability to live within the rules of
6 society. In the year and a half that you have been in federal
7 custody you've accrued seven different disciplinary sanctions.
8 I appreciate what Mr. Pittell says, that it's unfortunate that
9 we can't separate all gangs.

10 On the other hand, not every member of the YGz has
11 gotten into trouble by fighting with the CACs and not every
12 member of the CACs has gotten into trouble for fighting with
13 the YGz. Some of them managed to figure out that at least when
14 you're in jail, that is not the time to play out this thuggish
15 behavior of I'm in one gang and you are in another gang so
16 we've got to fight with each other.

17 Mr. Belle, that's stupid. It's just stupid behavior
18 and you are not that stupid. So that means that it's just
19 antisocial behavior. But you've got to demonstrate that you're
20 such a tough guy that you're willing to spend time in the SHU
21 fighting with other people. At some point you are going to
22 grow out of this. I don't know when and that's the challenge
23 for my sentence. The challenge is how long do you have to stay
24 looked up in and away from society until you cease being
25 dangerous? I've considered the need to provide just punishment

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1 for this offense while avoiding unwarranted disparities. I've
2 tried to plug your sentence in whether where it's appropriate
3 relative to your gang, to your gangster buddies who have also
4 been sentenced.

5 Consider the need to deter criminal conduct.

6 Mr. Belle, deterrence as two elements, what's called
7 specific deterrence and general deterrence. Specific
8 deterrence means how do we deter you from engaging in future
9 you criminal conduct? I am extremely concerned about your
10 propensity for violence. It is worrisome that you killed
11 someone at 13 and then you killed another person at the age of
12 19. You have been involved in significant violent conduct
13 including shooting at people since you were a teenager and you
14 have continued violent conduct in jail.

15 I acknowledge that teenagers and young adults do not
16 have particularly good judgment but there is no indication,
17 Mr. Belle, that your judgment is improving as you get older.

18 In terms of general deterrence, I think it is
19 important to send a message far and wide that this sort of
20 organized criminal conduct will not be tolerated. I think it's
21 incumbent on everyone to get the word out to mothers and
22 fathers, sisters and brothers to tell their loved ones to stay
23 away from gangs because otherwise, you are going to be spending
24 not months but decades in jail.

25 Consider the need to protect the public from the

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1 defendant.

2 Mr. Belle, you fired a gun on more than one occasion
3 attempting to kill rival gang members and on one occasion for
4 no reason attacked and kicked to death a rival.

5 I appreciate the argument that long sentences can be
6 counter productive but I have to impose a sentence that is long
7 enough to give this defendant time to mature to the point,
8 maybe, where he will not be so violent and so dangerous to
9 those around him, including other innocent bystanders who could
10 be killed by his conduct.

11 If this was just a matter of making poor choices,
12 Mr. Belle it would be a different story. But this was not a
13 poor choice. This was a something enate in you. It was
14 heartless to kill Noah in that way. And that level of
15 depravity is not just a matter of growing up in a bad
16 neighborhood without positive role models. None of that
17 helped. But it reflects a heartlessness that leaves me
18 worrying about your ability to conform to the rules of society
19 ever.

20 Lastly, I've considered the need to provide the
21 defendant with needed educational opportunities.

22 Mr. Belle, my sentence not going to keep you in jail
23 for the rest of your life. When you wanted to take back your
24 plea you looked at this sentence, the minimum even as really
25 the end of your life. If you choose to make it the end of your

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1 life, it can be. But if you decide to behave in jail and stay
2 from bad influences, you will get out of jail. Spend the time
3 that you are in jail learning a trade so that you can get out
4 and get a job. At best, you're going in your 50s as
5 Mr. Pittell says. That's a hard time of life to get a job.
6 It's a particularly hard time if you've got nothing to show
7 that you can do that is positive. So take advantage of
8 whatever program the prison has. Learn how to do something.
9 Get you GED if you can. If you are smart enough, you ought to
10 be able to get a GED. There's no excuse for you not having
11 one.

12 If the Lora family were here I would tell them that if
13 putting Mr. Belle in jail for the rest of his life would bring
14 back Noah, I would do it in a heartbeat but it wouldn't.

15 I've sentenced, Mr. Belle -- I'm sure you know this
16 because I think this information gets around the prison -- but
17 I've sentenced four of your colleagues for murder. Mr. Scott
18 got 278 months but I would note that he didn't intend to kill
19 anyone. It was a felony murder that he was convicted of and it
20 was committed when he was just 16.

21 While appreciate the psychology studies, a 16 year old
22 is substantially less mature than a 19 or almost 20 year old
23 which is where you were for the Lora murder.

24 Mr. Gilbert got 365 months. His one murder was a
25 felony murder associated with a robbery. But his criminal

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1 conduct occurred largely when he was in his 20s and was older.
2 His criminal conduct was substantially less serious than yours
3 but he was older when he committed it.

4 Mr. Williams killed a bystander after attempting to
5 kill a rival gang member. That murder was committed when he
6 was almost 19 years old. He had fairly limited criminal
7 history and he received 399 months with the direction the BOP
8 should credit him for 33 months he had served in the state
9 custody which took him to a total of 30 years.

10 Mr. Bracey participated in the Lora murder but he was
11 only 17. He also participated in a couple of other shootings
12 where he was lucky that no one was killed. He was sentenced to
13 33 years.

14 Taking all that into account, as to Mr. Belle, he's
15 serving and will serve nine years in state custody for an
16 attempted murder that's part of the YG activity.

17 So I'm taking all of that into account and I'm going
18 to sentence Mr. Belle to the custody of the Attorney General
19 for 60 months on Count One and 324 months on Count Two. Both
20 of those sentences are consecutive. The sentence on Count One
21 is consecutive to the state sentence. The sentence on Count
22 Two is consecutive to the sentence on Count One.

23 Imposing five years of supervised release on Count One
24 and Two concurrent. There are mandatory conditions of
25 supervise release, Mr. Belle.

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1 You can't commit another crime.

2 You can't illegally possess a controlled substance.

3 You can't possess a firearm or other destructive
4 device.

5 You must cooperate in the collection of DNA.

6 I'm not going to order drug testing because I am going
7 to order drug treatment.

8 There are special conditions of supervised release.

9 You have to submit your person, residence, place of
10 business, vehicle, electronic devices or other premises that
11 are under your control to search if the probation officer has a
12 reasonable belief that contraband or a violation of ever the
13 conditions of release may be found there. Any search must be
14 conducted at a reasonable time and in a reasonable manner.
15 Failure submit to the search may be grounds for revocation.

16 The defendant must participate in an outpatient drug
17 treatment program as directed by the probation officer. The
18 program may include testing to determine whether the defendant
19 has reverted to the use of drugs or alcohol. The defendant
20 must contribute to the cost of services based on his ability to
21 pay or the availability of third party payments. I'm
22 authorizing the release of available drug treatment evaluation
23 and reports including the presentence report to the substance
24 abuse provider.

25 The defendant must also participate in outpatient

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1 mental health treatment as directed by the probation officer.
2 He must continue to take any prescribed medication unless
3 otherwise instructed by the mental healthcare provider.

4 The defendant must contribute to the cost of services
5 based on his ability to pay or the availability of third party
6 payments. I'm authorizing the release of available,
7 psychological and psychiatric evaluations and reports,
8 including the presentence report to the healthcare provider.

9 The defendant must report to the nearest probation
10 office within 72 hours of his release and will be supervised by
11 the district of residence.

12 There is no forfeiture here, right?

13 MR. ENZER: There is no forfeiture.

14 THE COURT: I'm not imposing a fine because there is
15 no ability to pay a fine. I must impose a \$200 special
16 assessment.

17 Are their open counts?

18 MR. ENZER: There are and the government moves to
19 dismissed.

20 THE COURT: Those will dismissed.

21 Do you have any requests for designation, Mr. Pittell?

22 MR. PITTELL: Judge, we would request either MCI
23 Coleman or Allenwood.

24 THE COURT: Coleman, C-O-L-E?

25 MR. PITTELL: Yes, M-A-N.

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1 THE COURT: I am going to assume he is going to a
2 penitentiary and not an MCI.

3 MR. PITTELL: Then we'll just, I believe there's
4 penitentiaries at both places.

5 THE COURT: So, Coleman and Allenwood?

6 MR. PITTELL: Coleman or Allenwood, Coleman, Florida
7 or Allenwood, Pennsylvania.

8 THE COURT: OK. I'll make that request.

9 Mr. Belle, understand all I can do is ask. At the end
10 of the day it's up to the Bureau of Prisons to decide where you
11 are going to be designated but I'll request either Allenwood or
12 Coleman.

13 MR. PITTELL: Just regarding that one of the special
14 conditions regarding the drug treatment, is it mandatory upon
15 his release or is it as directed by the probation department?

16 THE COURT: The latter. If he successfully completes
17 drug treatment in prison, it may well be a very short lived
18 drug treatment. But my experience has been that people may do
19 well when they are in jail and they don't have access to drugs
20 and as soon as they get out and they can get access to drugs,
21 they fall back. So I think it's in Mr. Belle's interests to
22 have someone keeping an eye on whether he has reverted to using
23 drugs or alcohol.

24 MR. PITTELL: And also Mr. Belle's requested that I
25 order the sentencing transcript. Is it OK if I order it

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1 expedited?

2 THE COURT: It is not.

3 Mr. Belle, you can get it in 30 days when it goes
4 free. I'm not going to spend a penny of taxpayer dollars on
5 getting a sentencing transcript in advance unless somebody can
6 articulate a reason why that is a legitimate expenditure of my
7 tax dollars and your mother's tax dollars. Why do you need the
8 sentencing transcript so quickly?

9 MR. PITTELL: Well, he wanted a copy to take with him
10 when he gets transferred back into state custody.

11 THE COURT: You can mail it to him.

12 MR. PITTELL: I will. But I think he'll be
13 transferred before the 30 days. That's why I was -- my request
14 was so that he would have it in hand when he gets moved over
15 there.

16 THE COURT: Look, I understand there is -- although,
17 with this sentence I can't imagine anybody is going to think
18 that Mr. Belle was cooperating. But I'm not playing the game
19 of show me your sentencing transcript and I'm not going to
20 facilitate that and I'm not going to spend tax dollars on it.

21 The transcript goes free in 30 days. You can get it
22 at that point.

23 MR. PITTELL: OK.

24 THE COURT: OK. Mr. Belle, to the extent you have not
25 given up your right to appeal through the agreement you entered

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1 into with the government, you have the right to appeal your
2 sentence. If you are unable to pay the cost of an appeal you
3 may apply for leave to appeal in forma pauperis. The notice of
4 appeal must be filed within 14 days of the judgment of
5 conviction.

6 Anything further, Mr. Enzer?

7 MR. ENZER: Nothing. Thank you, your Honor.

8 THE COURT: Anything further, Mr. Pittell?

9 MR. PITTELL: Nothing from us.

10 THE COURT: All right. Thank you, all.

11 (Adjourned)